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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/848,829	05/19/2004	Thomas John Nyland	14684.1US01	4775

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EXAMINER

ROWAN, KURT C

ART UNIT	PAPER NUMBER
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3643

DATE MAILED: 12/10/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/848,829

Applicant(s)

NYLAND, THOMAS JOHN

Examiner

Kurt Rowan

Art Unit

3643

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 16 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
3. Claim 16 recites the limitation "the coupler" in line 11. There is insufficient antecedent basis for this limitation in the claim.

### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 10, 11, 13, 14, 15 are rejected under 35 U.S.C. 102(b) as being anticipated by Perry.

The patent to Perry shows a fishing rod having an arm support device. Perry shows a coupler 102, 104 adapted to be coupled to the handle 40 of the rod 42. Perry shows an arm cradle 52, 54 that opens in an upward direction and being positioned above the coupler. Perry shows a pivot pin 96 at hinge connection 90 that includes a pivot shaft 110 that extends downwardly from the arm cradle to the coupler.

6. Claim 16 is rejected under 35 U.S.C. 102(b) as being anticipated by Roberts.

The patent to Roberts shows a stabilizer for a fishing rod and reel in Fig. 2. Roberts shows a clamp 17, 18, an arm cradle 2, 3 that opens upwardly (since arms 16, 16 will pivot upwardly due the adjustment of bolt 12) and being positioned above the top side of the clamp. Roberts shows a receptacle between arms 17, 18 extending through the clamp from the front side to the back side. Roberts shows a pivot pin 9 connecting the arm cradle to the coupler (taken to be the clamp). Roberts shows the pivot pin having a pivot shaft that extends downwardly from the arm cradle to the coupler. The pivot pin is free to pivot about a pivot axis that is offset to the left as shown in Fig. 2. the pivot pin is connected to the arm cradle at a location adjacent the front end of the arm cradle as shown in Fig. 3 noting that no frame of reference is given.

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Perry in view of Paddock.

The patents to Perry and Paddock show fishing rod attachments. Perry shows a fishing rod with a top side, bottom side, a left side and a right side. Perry shows an arm cradle<sup>52, 54</sup> connected to the fishing rod<sup>42</sup>. the cradle opens in an upward and is

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pivotaly movable relative to the fishing rod about a pivot axis that is offset to one side of the fishing rod as shown in Fig. 2. The patent to Paddock shows a fishing rod having a plurality of eyelets 26 as disclosed in Fig.1 and in column 5, lines 3-4. The patent to Perry shows all of the elements recited with the exception of the eyelets positioned on the rod. Perry probably has eyelets but at any rate, it would have been obvious to provide Perry with eyelets as shown by Paddock for the purpose of guiding the fishing line. In reference to claim 2, Perry shows the cradle positioned on the top of the fishing rod. In reference to claim 3, Perry appears to show the cradle 54 inclined upwardly at about a 45 degree angle. It appears that Perry would be inclined from 0 degrees to 90 degrees. In reference to claim 4, Perry shows the incline angle being adjustable. In reference to claim 5, Paddock shows a fishing rod with a shaft and a handle wherein the fishing rod includes a reel mount at the handle and the arm cradle is connected to the handle behind the reel mount as shown in Fig. 1. In reference to claim 7, Perry shows the arm cradle having a front end and a back end and the arm cradle is elongated from the front end to the back end.

9. Claims 1-2, 4, 7, 8, 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Roberts as applied to claim 16 above, and further in view of Paddock.

The patents to Roberts and Paddock show fishing rods having arm cradles as discussed above. Roberts shows all of the elements recited in claim 1 with the exception of the fishing rod having eyelets although the rod probably has eyelets. At any rate Paddock shows a rod having eyelets 26. In reference to claim 1, it would have been obvious provide Roberts with eyelets as shown by Paddock to guide the fishing

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line. In reference to claim 2, Roberts shows the rod cradle positioned above the fishing rod. In reference to claim 4, Roberts shows an incline angle between the cradle and the fishing rod which is adjustable due to rotation of elements 11-15. In reference to claim 7, Roberts shows a cradle 2-3 having a front end 8 and a back end and that the cradle is elongated from the front end to the back end. In reference to claim 8, Roberts shows a pivot pin 9 coupled to the front end 8 of the arm cradle 2-3. In reference to claim 9, Roberts shows a clamp 1 coupled to the fishing rod with the clamp defining an opening in which the pivot shaft 9 is pivotally mounted.

### ***Conclusion***

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The patents to Macaluso, Dominguez, Latouche, Johnson, Transeau, and Hagen show other fishing rods with arm cradles.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kurt Rowan whose telephone number is 703 308-2321. The examiner can normally be reached on Monday-Thursday 6:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Poon can be reached on 703 308-2574. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read "Kurt Rowan", with a long horizontal stroke extending to the right.

Kurt Rowan  
Primary Examiner  
Art Unit 3643

KR